

IN THE SUPREME COURT OF THE STATE OF NEVADA

MIGUEL A. DELIRA,

No. 36392

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

NOV 16 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a nolo contendere plea,¹ of sexual assault. The district court sentenced appellant to serve 10 to 25 years in prison.

Appellant's sole contention is that the district court abused its discretion in denying his presentence motion to withdraw his plea without conducting an evidentiary hearing. Based on our review of the record, we conclude that appellant failed to demonstrate that his plea was not knowingly and voluntarily entered² and failed to make any allegations that would warrant an evidentiary hearing.³ Appellant has not

¹Appellant pleaded guilty pursuant to North Carolina v. Alford, 400 U.S. 25 (1970). Under Nevada law, "whenever a defendant maintains his or her innocence but pleads guilty pursuant to Alford, the plea constitutes one of nolo contendere." State v. Gomes, 112 Nev. 1473, 1479, 930 P.2d 701, 705 (1996).

²See Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (explaining that the defendant has the burden of showing that his guilty plea was not entered knowingly and voluntarily).

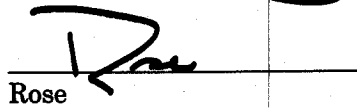
³See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984) (holding that claims that are not supported by sufficient factual allegations or that are belied or repelled by the record do not warrant an evidentiary hearing).

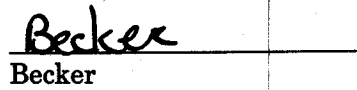
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demonstrated that the district court abused its discretion in denying the presentence motion to withdraw the plea.⁴ Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 J.
Shearing

 J.
Rose

 J.
Becker

cc: Hon. John S. McGroarty, District Judge
Attorney General
Clark County District Attorney
William J. Taylor
Clark County Clerk

⁴See Bryant, 102 Nev. at 272, 721 P.2d at 368 (explaining that this court "will presume that the lower court correctly assessed the validity of the plea, and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion").